MOTION FILED SEP 4 1958

IN THE

Supreme Court of the United States

.....TERM, 1958

No.....

JAMES MADISON BURKE, for himself and in behalf of, and as next friend of the people of the United States of America,

Plaintiffs,

vs.

EARL WARREN, Chief Justice of the Supreme Court of the United States of America, and Associate Justices, and the State of Maryland

Defendants,

SUIT FOR DECLARATORY JUDGMENT

IN RE LITTLE ROCK

JAMES M. BURKE,
801 Beechfield Ave.,
Baltimore 29, Md.

Attorney in Fact.

King Bros., Inc., 208 N. Calvert St., Baltimore 2, Md.

IN THE

Supreme Court of the United States

.....TERM, 1958

JAMES MADISON BURKE, et al,

Plaintiffs,

vs.

EARL WARREN, et al,

Defendants,

MOTION FOR LEAVE TO FILE SUIT FOR DECLARATORY JUDGMENT IN RE LITTLE ROCK

To the Honorable, the Judges of said Court:

James M. Burke, plaintiff, for himself and in behalf, of, and as next friend of the people of the United States of America, moves this Honorable Court for leave to file suit for Declaratory Judgment in the instant matter, because the hearing on the controversy at bar violates the Constitution of the United States of America.

1. If a constitutional question arises the parties to the controversy are not properly joined.

a. A petition for a writ of Certiorari (No. 212) Filed July 24th, 1958 in the matter of Orval E. Faubus, et al, *vs.* United States of America, et al, addressed to the United States Court of Appeals for the Eighth Circuit is now be-

fore this Honorable Court and Governor Faubus has not been joined in the instant controversy,

b. Plaintiff herein has suit pending against the United States of America, (James Madison Burke *vs.* United States of America and the State of Maryland) titled Motion for Rehearing in re Brown *vs.* Board of Education, filed 1954 prior to Brown supra and raising the constitutional question of the rights of the people when their rights under the Constitution are abrogated by the Courts in exercising their Equity powers,

c. Plaintiff has a mandatory appeal pending before this Court from the Circuit Court for Baltimore County, State of Maryland, in re Burke *vs.* Eisenhower, from a decision dismissing plaintiff in the matter of the use of troops to enforce integration and whether such action constitutes a class denial of the Constitutional rights of the people of the United States of America,

2. If a constitutional question does not arise in the instant controversy, the Court is acting arbitrarily and capriciously in such a way as to endanger our Republican form of Government,

3. The facts in the matter before this Court are obscured because of discrepancies in the record sent down from the Court of Appeals for the Eighth Circuit,

4. Equity follows the Law, as a matter of fact, and this Court is powerless to exercise jurisdiction to determine what is a reasonable time when under the Supreme Law of the Land established by the Constitution of the United States of America only Congress has that right, otherwise it is left to the people,

5. The Chief Justice has publically proclaimed that the responsibility of the judiciary is not only to decide the

law but to administer it, and this leaves the people of the United States completely in a quandry, not being quite sure whether such public statements represent the meaning of the Constitution or whether such statements represent behavior unbecoming to a public officer,

Wherefore Plaintiffs' move that the suit for Declaratory Judgment be set down for hearing to determine whether the Courts can administer under their Equity power that which is denied to them under the Supreme Law of the Land, and

Plaintiffs move further that the present Court disqualify itself to hear the motion and the suit, in order that plaintiffs' may petition the Government of the United States to enlarge the Court to hear this matter.

Respectfully submitted,

JAMES M. BURKE,

Attorney in Fact.

IN THE

Supreme Court of the United States

.....TERM, 1958

JAMES MADISON BURKE, et al,

v.

EARL WARREN, et al,

SUIT FOR DECLARATORY JUDGMENT

IN RE LITTLE ROCK

To the Honorable, the Judges of said Court:

James Madison Burke, a citizen of the State of Maryland and of the United States of America, in his own behalf and as next friend of the People of the United States of America, and who resides at 801 Beechfield Avenue, Baltimore 29, Maryland, complains to this Honorable Court, saying:

1. That the jurisdiction of the Court is invoked under the diversity of citizenship rule of Article III, Section 2 of the Constitution of the United States of America,

2. That the Honorable members of this Court and the retired members thereof are disqualified to hear the petitioners in the instant controversy praying that a stay order entered in subject controversy by the United States Court of Appeals for the Eighth Circuit be vacated, by virtue of public pronouncements by the Chief Justice of the Court

reflecting the *policy* of said Court that contravenes the Constitution of the United States,

3. That the Honorable members of this Court and the retired members thereof are disqualified to hear the petitioners in the instant controversy praying that the decision of the Court of Appeals of the Eighth Circuit, reversing an order of the United States District Court for the District of Little Rock be sustained, because of similar public pronouncements by the Chief Justice and members of this Honorable Court which reflect a *policy* of said Court that contravenes the Constitution of the United States,

4. That the damages to plaintiffs are not calculable,

Therefore plaintiff's asks for a jury trial to determine the issue of whether the present court is disqualified to hear the instant controversies and similar cases.

Respectfully submitted,

JAMES M. BURKE,
801 Beechfield Ave.,
Baltimore 29, Md.

Attorney in Fact.